

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of:	)	
	)	
	)	
Biennial Regulatory Review of Regulation	)	
Administered by the Wireline Competition	)	WC Docket No. 02-313
Bureau	)	
	)	

**COMMENTS OF TDS METROCOM**

TDS Metrocom hereby submits these comments in response to the Commission's Notice of Proposed Rulemaking in the above captioned proceeding. (*Biennial Review NPRM*)<sup>1</sup> TDS Metrocom is a facilities-based competitive local exchange carrier providing voice and data services, including broadband data offerings such as DSL to over 350,000 residential and business access line equivalents in Illinois, Michigan, Minnesota, North Dakota and Wisconsin.

As a provider of broadband DSL services to both residential and business customers, TDS Metrocom requires access to a continuous copper loop facility from the end user premise to TDS Metrocom's equipment that is generally collocated in the ILEC central office, also known as a "home run" copper loop. Any modifications to ILEC networks that would disturb access to "home run" copper will directly affect TDS Metrocom's ability to provide services to its current customer base and its addressable market of potential customers. Therefore, TDS Metrocom supports the Commission's

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<sup>1</sup> In the Matter of *Biennial Regulatory Review of Regulations Administered by the Wireline Competition Bureau, Notice of Proposed Rulemaking*, released January 12, 2004, WC 02-313, FCC 03-337. (*Biennial Review NPRM*)

suggestion that its network change disclosure rules be modified by adding specific titles to identify notices pertaining to the replacement of copper facilities.

## DISCUSSION

As the *Biennial Review NPRM* noted, the importance of the Commission's role in the network change disclosure process dramatically increased with the release of the *Triennial Review Order*.<sup>2</sup> Because unbundling requirements now differ based on the transmission medium - copper, fiber or hybrid copper/fiber loops - any network modifications that change a loop's physical makeup will have a significant impact on the ability of CLECs to gain access to that facility and may limit the types of services a CLEC is able to provide over that facility. The Commission's public notice process is thus accurately portrayed as "a critical means of notifying competitors of incumbent LECs' plans to replace copper loops or copper sub-loops with fiber."<sup>3</sup>

The Commission made one proposal in the *Biennial Review NPRM*, to add specific titles to identify notices of replacement of copper loops and sub-loops. TDS Metrocom supports uniform labeling of such notices and proposes the use of two separate titles. First, "Replacement or retirement of copper loops or sub-loops" should be used as a title or subtitle in applicable notices that propose to eliminate all copper aspects of loop facilities. Second, "Replacement of copper feeder plant and/or DLC deployment" should be used as a title or subtitle in applicable notices where the network modification will

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<sup>2</sup> In the Matter of *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, CC 01-338, FCC 03-36, Released August 21, 2003. (*Triennial Review Order*) Paragraphs 281-284.

<sup>3</sup> *Biennial Review NPRM*, para. 19.

have the effect of changing the makeup of loops from entirely copper-based to hybrid copper/fiber loops.

Both types of network modifications will have significant impacts on the ability of CLECs to access loop facilities. Separate titles for full fiber deployment and hybrid loop conversion are warranted because the nature of ongoing access to the remaining loop components will differ significantly. Furthermore, whether or not CLECs would be affected by such a change will depend on individual business plans and therefore, clear titles will allow for CLECs to easily identify the potential impact and limit the number of carriers requesting more detailed information on the network changes from the ILEC. This should save resources for all parties involved.

While the Commission only raised the labeling issue in the *Biennial Review NPRM*, TDS Metrocom is concerned that the network change disclosure process is not robust enough for the new importance placed on it in the *Triennial Review Order*. In general, carrier use of the process is slow and inconsistent and unless enhanced the process will likely provide little benefit to interconnecting carriers when it is used in the context of fiber replacement of copper facilities.

A sampling of the network change notifications released thus far in 2004 by SBC provides an example of the inconsistency and confusion inherent in the current process. For the SBC states in which TDS Metrocom operates (Illinois, Michigan and Wisconsin) the FCC has released two Public Notices related to the receipt of network change certifications in 2004. SBC's notification to CLECs was handled differently in each case. FCC Public Notice NCD-901 was released on February 11, 2004 and covered the planned replacement of a switch in Michigan. SBC did not release an Accessible Letter to all

CLECs that would be potentially affected by the proposed change. Instead, a notice was posted on SBC's corporate Internet site devoted to network disclosures. On March 1, 2004, FCC Public Notice NCD-918 was released covering a change in the switching platform used for the provision of Michigan Relay Services. In this case, an Accessible Letter was sent to CLECs (CLECAM04-030, 2/4/2004), but as of April 14, 2004, no corresponding notice had been posted on SBC's network disclosure site although a Network Disclosure Number is referenced in the Accessible Letter.

Additionally, on March 23, 2004, SBC released an Accessible Letter dealing with the planned replacement of a switch in Illinois (CLECAM04-086). There was no corresponding notice posted on the SBC network disclosure site, although the Accessible Letter did reference a network notification that was posted nine months earlier (Network Notification No. SBC20030617L.1, posted 6/17/2003). A search of the SBC CLEC Online site that contains previous Accessible Letters (which is completely separate from the network disclosure site) did not reveal any Accessible Letters related to this planned network modification around the time the original notice was posted on the SBC network disclosure site. FCC Public Notice NCD-813 was released by the FCC on July 30, 2003 related to this planned switch replacement, but no FCC Public Notice has been released for the updated information provided in the recent Accessible Letter.

The examples above highlight the inconsistent use of the notification process. Without consistent use of the network change notification process, there is no guarantee that interconnecting carriers will receive timely and accurate information. Such information is critical for both network planning and business planning. Carriers must know as soon as possible if access to network facilities will be changing in order to

investigate possible alternatives. Self-provisioning facilities (if economically possible), securing facilities from third-parties (if any alternatives exist) and engaging in commercial negotiations to access facilities (if carriers are required to engage in such negotiations) all require clear information and a significant amount of time for analysis and implementation.<sup>4</sup>

Accordingly, beyond simply adding new titles for network change disclosures, the FCC should strengthen its network disclosure policies and ensure that the rules in place today are adhered to consistently by all carriers. Specifically, the FCC should reiterate that notices must be provided for planned network changes "at the make/buy point" (Section 51.331(a)) including in the case of replacing any copper loops, sub-loops or feeder plant with fiber facilities. The Commission should also require carriers to serve a copy of public disclosure notices upon each telephone exchange service provider that directly interconnects with the carrier's network for all network change disclosures and updates. While this requirement is in place for short-term notices, it is not specifically in place for all notices and may result in inconsistencies in providing notice to CLECs such as those described above. Finally, the Commission should open a proceeding to directly address all of its network disclosure rules including the timing, requirements and disposition of objections to network change notifications. While the FCC provided for an objection process in its *Triennial Review Order*, that decision did little to elaborate on the criteria that would be used by the Commission in determining when objections would be granted or denied.

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<sup>4</sup> TDS Metrocom continues to believe that the Commission's determinations related to CLEC access to fiber and hybrid loops is contrary to the Telecom Act of 1996 and inconsistent with the record in the *Triennial Review* proceeding. Enforcement of the network change disclosure rules will not reduce the impairment CLECs face related to

## CONCLUSION

If the replacement of copper loops with fiber facilities increases significantly as the Commission hopes it will, the FCC network change disclosure rules will play an extremely important role in the replacement process. Providing interconnecting carriers with the time and information necessary to insure that their current customers continue to be served and that business plans can be altered to account for changes in network access is of critical importance to the industry. The Commission needs to address its network change disclosure rules immediately to make sure they are applied consistently so as to provide timely and accurate information or they will be of little benefit to anyone involved in the process.

Respectfully submitted,

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April 14, 2004

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fiber and hybrid loops, nor will it increase the likelihood that viable alternatives to unbundled access exist in the marketplace.